REMARKS

The Examiner has objected to Claims 1-23 due to informalities in Claims 1 and 12. Applicant has clarified such claims to avoid such objections.

The Examiner has rejected Claims 1-2, 4-13, 14-23, 39-40, 44-51 and 53-54 under 35 U.S.C. 103(a) as being unpatentable over Slivka et al. (U.S. Patent No. 6,256,668) in view of Meyerson (U.S. Patent Publication No. 2002/0184619). The Examiner has rejected Claims 24-25, 28-38, 43 and 52 under 35 U.S.C. 103(a) as being unpatentable over Slivka in view of Meyerson in further view of "Understanding UPnP™: A Whitepaper" (June 200, published by the UPnP™ Forum). Applicant respectfully disagrees with such rejection for the reasons argued below.

Moreover, such rejection is moot since applicant's invention was completed in the United States at a date prior to May 30, 2001, the effective date of United States Patent Publication No. 20020184619 that was cited by the Examiner in rejecting each of the independent claims. A declaration and exhibit evidencing such are submitted herewith.

In particular, declarations signed by inventors are submitted herewith establishing completion of the invention in this application in the United States at a date prior to May 2001. Evidencing such completion is a confidential disclosure document generated before the filing of the present patent application showing the conception of providing a framework for network appliance management in a distributed computing environment at least as early as April 3, 2001.

Furthermore, statements by inventors are provided which state that, at a date prior to May 30, 2001, the invention in the above patent application was conceived to include an appliance status table recording a status report periodically received from a status daemon autonomously operating on each of a plurality of network appliances, each status report containing health and status information and application-specific data pertaining to autonomous configuration and management of each network appliance; and a catalog

server maintaining configuration settings for each network appliance progressively assembled concurrent to providing installable components and dynamically providing a catalog listing currently installable components for each network appliance based on the configuration settings independently received from the network appliance.

Moreover, the invention was conceived to include an internal catalog of components installed on one such network appliance identified by component and version; and a status daemon operating autonomously on the one such network appliance and periodically providing a status report containing health and status information and application-specific data pertaining to autonomous configuration and management of the one such network appliance; and a catalog checker obtaining a catalog of currently installable components dynamically generated for the one such network appliance based on the status report independently received from the one such network appliance and determining non-current components by comparing the components and versions listed in the obtained catalog against the internal catalog, as well as other claimed features.

In view of such declaration and supporting evidence, the foregoing rejection is deemed to have been overcome. An allowance is respectfully requested. In addition to such declaration and supporting evidence of prior invention, applicant respectfully asserts that the references cited by the Examiner do not teach all of applicant's claim language.

With respect to each of the independent claims, the Examiner has relied on the Meyerson's disclosure of an "update agent [that is] designed by a particular software publisher to handle all of that publisher's software" ([0028]), an "update agent [that is] designed for handling multiple software publishers" ([0029]), "software update information" ([0033]), "a criticality check program...for the software updates that are available" ([0034]), and "the purpose of the criticality check program is to examine the user's computer and adjust the initial criticality rating for the software update" ([0036]) to make a prior art showing of applicant's claimed "each status report containing health and status information and application-specific data pertaining to autonomous

configuration and management of each network appliance" (see this or similar, but not identical, language in each of the foregoing claims).

Applicant respectfully asserts that the above excerpts from Meyerson cited by the Examiner solely relate to software updates, and NOT a status report "pertaining to autonomous configuration and management of each network appliance," as claimed by applicant. Specifically, update agents for handling software updates and a criticality check program for determining how critical an update is to a computer, as disclosed by Meyerson, only pertain to the software itself, and not to configuration and management in the context claimed by applicant. Thus, Meyerson clearly fails to teach applicant's claimed "status report containing health and status information and application-specific data pertaining to autonomous configuration and management of each network appliance."

In addition, the Examiner has relied on the following excerpt from Slivka to make a prior art showing of applicant's claimed "catalog server maintaining configuration settings for each network appliance progressively assembled concurrent to providing installable components...and a catalog listing currently installable components for each network appliance based on the configuration settings" (see this or similar, but not identical, language in each of the foregoing claims).

> "The database entries contain information about computer software available on the update service computer. The comparison is conducted to identify software available fro the remote update service that might be appropriate fro installation on the suer computer (i.e. new computer software, new versions of existing computer software, patches or fixes for existing computer software, new help files, etc.). After the comparison is completed, the update service computer makes the computer software stored at the remote update service computer available to the user." (Slivka-Col. 2, lines 42-52)
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> "After the service update application completes the analysis of the user computer software, a summary report is sent back to the user computer from the update service computer 76." (Col. 8, lines 2-5)

Applicant respectfully asserts that a database containing information about computer software available on an update service computer does not meet applicant's claimed "catalog server." Specifically, applicant claims "a catalog server [that maintains] configuration settings for each network appliance," which is simply not met by Slivka's update service computer which only contains "information about computer software available" (emphasis added). Computer software that is available to other computers clearly does not meet applicant's claimed "configuration settings." Thus, simply nowhere in Slivka is there any disclosure of "a catalog server maintaining configuration settings for each network appliance" or "a catalog listing currently installable components for each network appliance based on the configuration settings," as claimed by applicant.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. A notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P375/01.086.01).

Respectfully submitted,
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